

**REMARKS**

Claims 1, 3, 5-8, 10, 12-14, 16, and 18-24 are pending in this application. By this Amendment, claims 2, 4, 9, 11, 15 and 17 are cancelled without prejudice to or disclaimer of these subject matter contained therein, claims 1, 3, 8, 10, 14, 16, and 18-21 are amended, and claims 22-24 are added. Amended claim 1 now includes the features found in original claim 2, and amended claim 8 now includes the features found in original claim 9. New independent claim 22 combines original claim 1 and original claim 4, new independent claim 23 combines original claim 8 and claim 11, and new dependent claim 24 corresponds to original claim 14 but dependent on new claim 23. No new matter has been added.

**Objection to the Drawings**

The Office Action objects to the drawings under 37 CFR § 1.83(a). In particular, the Examiner asserts that “damper grids” in claims 3, 10 and 16; means by which the transporting means are “attachable or attached” in claims 5 and 12; and the “sound delaying filter” in claims 6, 13 and 19 must be shown or the features cancelled from the claims. However, it is respectfully submitted that these features are exemplary embodiments of the invention and should not be required in the figures. Accordingly, it is respectfully submitted that the instant specification adequately describes and enables “damper grids”, means by which the transporting means are “attachable or attached”, and “sound delaying filter”.

For instance, with regard to the damping grids, the specification describes that the damping grids may be placed on an inner surface of the means for transporting sound to the inlet which may act as the sound passage for volume (page 2, lines 5-7). Accordingly, one of ordinary

skill in the art would be aware of the concept of damper grids placed in the means for transporting sound (including the assertions made by the Examiner in connection with the disclosure of Killion et al., U.S. Patent 6,151,399). Thus, a skilled person reading the claims in conjunction with the figures should not be in doubt as to the concept of damper grids placed on the inner surface of the means for transporting sound.

With regard to the “attachment means”, Figs. 1-3 disclose a microphone referred to by reference 1 and the transporting means referred to by reference 2 which may be attached by clicking the parts together, gluing, soldering or welding, as disclosed on page 2, lines 31-32 in the specification. Accordingly, one of ordinary skill in the art should also not be in doubt about the concept of attachment means.

With regard to the “sound delaying filter”, the filter may be adapted to a distance between the sound inlet in the surface which produces a delay of the traveling sound, as described on page 2, line 33 through page 3, line 1 in the specification. Thus, one of ordinary skill in the art should also not be in doubt as to concept of the placement or the functionality of the sound delay filter.

Reconsideration and withdrawal of the objection are respectfully requested.

**Claim Rejections Under 35 U.S.C §§ 102 and 103**

Claims 1, 3, 5-8, 10, 12-14, 16, 18 and 19 are rejected under 35 U.S.C. § 102(e) as being anticipated by Killion et al. (hereinafter “Killion”), U.S. Patent 6,151,399; and claims 2, 4, 9, 11, 15, 17, 20 and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Killion. These rejections are respectfully traversed.

At the outset, claims 2, 4, 9, 11, 15 and 17 have been cancelled and incorporated into either independent claims 1, 8, 23 and 24. Accordingly, the rejection under 35 U.S.C. § 102 over

Killion has been rendered moot as the reference of Killion was not applied as an anticipatory reference to rejection claims 2, 4, 9, 11, 15 and 17. Thus, the arguments below are addressed to the obviousness rejection of claims 2, 4, 9, 11, 15 and 17.

The Examiner asserts, on page 4 in the Office Action, that Killion discloses the transporting means constructed to have certain acoustic properties and draws the attention to col. 9, lines 65 -68. Further, the Examiner admits that "Killion does not specifically teach that the inner diameter of the transporting means is dimensioned in such a way that the frequency response of the transporting means is optimized". However, Applicant respectfully traverses the Examiner's rejection. In particular, col. 9, lines 65-68 in Killion merely discloses that the front sound passage 186 as well as the rear sound passages 185, 187 can be chosen to duplicate the acoustic properties of tubes 85 and 86 of Fig. 3 so that similar response and polar plots may be provided. However, it is respectfully submitted that duplicating acoustic properties is not the same as dimensioning the inner diameter of the hollow transporting means (e.g., duplicating is merely copying whereas dimensioning requires skill and knowledge not obvious to one of ordinary skill in the art), as recited in claims 1, 8, 22 and 23.

Similarly, the Examiner asserts on page 5 of the Office Action, that because Killion does not restrict that the inlet holes are provided with a particular diameter, it would have been obvious for one of ordinary skill in the art to provide inlet holes which are dimensioned according to a required directionality. The Examiner further admits, "Killion does not clearly teach that the diameter of the at least two inlet holes for sound are dimensioned according to a required directionality". Applicant, again, respectfully traverses the Examiner's rejection. As similarly discussed above, the proper dimensioning of inlet holes in order to obtain a desired

directionality requires skill and knowledge which is not obvious to one of ordinary skill in the art.

Thus, Applicant respectfully submits that the Examiner failed to meet the *prima facie* case of obviousness because the Examiner provides no suggestion for modifying Killion to the extent required to sustain the obviousness rejection. A *prima facie* case of obviousness rejection must show some suggestion to modify the reference or to combine reference teachings, show a reasonable expectation of success (teaching or suggestion must be in the reference), and show prior art references that teach or suggest all of the claim limitations. The mere fact that references can be modified does not make the invention obvious unless the prior art also suggests the desirability of the modification. Thus, because Killion does not disclose any motivation or suggestion to modify the invention in the manner asserted by the Office Action, one of ordinary skill in the art would not have modified the references as asserted in the Office Action to obtain the claimed invention.

For at least these reasons, Applicant respectfully submits that Killion fails to disclose or render obvious the features recited in independent claims 1, 8, 22 and 23. Claims 3, 5-7, 10, 12-14, 16, 18-21 and 24, which depend from the independent claims are likewise distinguished over the applied art for at least the reasons discussed, as well as for the additional features they recite. Reconsideration and withdrawal of the rejections under 35 U.S.C. § 102 and 103 are respectfully requested.

### **CONCLUSION**

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections in connection with the present application is earnestly solicited.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) hereby petition(s) for a two (2) month extension of time for filing a reply to the outstanding Office Action and submit the required \$420.00 extension fee herewith.

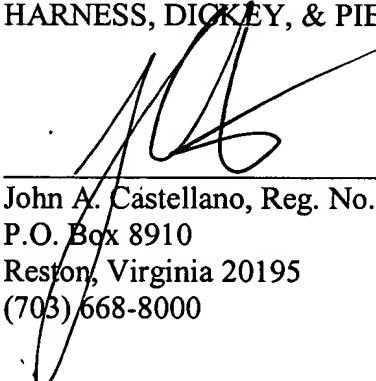
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John Castellano at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKY, & PIERCE, P.L.C.

By



---

John A. Castellano, Reg. No. 35,094  
P.O. Box 8910  
Reston, Virginia 20195  
(703) 668-8000

JAC/DJC/krf